IN THE HIGH COURT OF JUDICATURE OF BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 1147 of 2006

Mrs.Veena Dushyant Bhatt .. Petitioner

versus

Mr.Dushyant Himmatlal Bhatt .. Respondents

...

Mr.Piyush M. Shah for the petitioner.

Mr.D.J. Halwai for the respondent.

CORAM : D.G. KARNIK, J

DATED : 27th February 2006.

P.C.:

1. Heard learned counsel for the petitioner and respondents.

2. By this petition, the petitioner challenges the judgement and order dated 4th November 2005 passed on the application for interim maintenance filed by the

petitioner in the Marriage Petition no. A-1694 of 2003. The petitioner submits that the amount of maintenance of Rs.4000 per month is insufficient and the learned trial Judge has erred in computing the earning of the respondent.

3. Learned counsel for the petitioner hands in the copy of the income tax return filed in by the respondent. It shows his gross taxable income for the Assessment year 2004-05 to be Rs.1,12,919/-. In addition, a tax free interest of Rs.13,337/- was received by the petitioner. Thus, the total income of the petitioner was Rs.1,26,000/- on which he paid a tax of about Rs.9,000/-. Taking this into consideration, I do not find that the interim alimony of Rs.4,000/- per month is disproportionately low. It is to be noted that it is only on interim alimony and based on preliminary investigation of the facts. At the trial, the petitioner would be free to show that the respondent’s income is more than what has been shown in the income tax return and the Court would take into consideration all the evidence which may be adduced by the petitioner.

4. In the circumstances, Writ Petition is

rejected.

5. Taking into consideration the fact that the petitioner is more than 60 years old, hearing of the Marriage Petition is expedited.

(D.G. KARNIK, J)